IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 6.9.2006

Parsin Kaur and another

...Appellants

versus

Jarnail Singh Singh and others.

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.

Present: Mr.Amarjit Markan, Advocate
for the appellants.
Mr.Anurag Jain, Advocate
for respondent No.3.

UMA NATH SINGH, J. (ORAL)

This judgment shall also dispose of connected FAO No.9 of 1989 filed jointly by the owner and the Insurance Company, as both the matters arise out of a common award dated 20.8.1988 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Patiala, in MACT Case Nos.4 and 5 of 1988, awarding a sum of Rs.48,400/- in death case of Balwant Singh, aged 25 years, and said to be a bachelor.

It appears that on the date of accident, i.e., 24.12.1987 at about 9.00 PM, when the deceased was travelling in a three wheeler, the accident took place. The deceased was shifted to the emergency ward of a hospital, where he succumbed to the injuries on 25.12.1987, after one day. Learned counsel for the appellants submitted that the earning of the deceased, which has been assessed as a labourer on the notional basis, appears to be grossly inadequate. Learned counsel also submitted that the Tribunal has further erred in not awarding any amount towards funeral expenses. On the other

hand, learned counsel for the Insurance Company opposed the submissions of learned counsel for the appellants, urging that in 1988, value of currency was high and, therefore, the compensation amount is just and reasonable.

I have carefully considered the rival submissions and have perused the records. It appears that in 1988, the Deputy Commissioner's rate for engagement of a labourer was Rs.40/- per day. A labourer may not be getting work for all the 30 days, therefore, the said amount on being multiplied by 25 would come to Rs.1,000/- per month. Thus, the annual earning would come to Rs.12,000/-. It also appears that parents of the deceased, who are the claimants, were in the age group of 45-50 at the time of accident. As per Schedule-II, for the said age group, the multiplier of 13 is applied, although, the Tribunal has applied a higher multiplier of 16. Thus, total amount would come to Rs.1,56,000/-. The deceased was unmarried at the time of accident, therefore, he would be spending 50% towards personal expenses. Thus, 50% amount of Rs.1,56,000/- would come to Rs.78,000/-. Besides, I also award Rs.2,000/- towards funeral expenses. Thus, in total, the claimants would be entitled to get Rs.80,000/-. The enhanced amount shall carry the interest @ 6% per annum from the date of application. Accordingly, the compensation amount of Rs.48,000/- is enhanced to Rs.80,000/- with an interest @ 6% per annum from the date of application.

As regards FAO No.9 of 1989 filed by the owner and the Insurance Company, in view of a latest judgment of Hon'ble the Apex Court reported in 2006(2) PLR 827 (R.Mannakatti and another versus M.Subramanian and another), it would not be maintainable. Hon'ble the Apex Court has held that joint appeal filed by the owner and the Insurance

Company was not maintainable.

Accordingly, FAO No.9 of 1989 filed by the owner and the Insurance Company is dismissed as such. The appeal of the claimants (being FAO No.1176 of 1988) is allowed in terms of the compensation amount enhanced hereinabove.

September 6, 2006 **(UMA NATH SINGH)**
pk **JUDGE**